

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 172
SENATE BILL 1245

AN ACT

AMENDING SECTIONS 32-1301, 32-1322 AND 36-324, ARIZONA REVISED STATUTES;
RELATING TO FUNERAL DIRECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1301, Arizona Revised Statutes, is amended to
3 read:

4 32-1301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accredited" means recognized or authorized by the American
7 board of funeral service education.

8 2. "Administrative costs and expenses" means the cost of copies,
9 transcripts, court reporter and witness fees, reimbursement for mileage
10 and office of administrative hearings costs.

11 3. "Alternative container" means any unfinished wood box or other
12 nonmetal receptacle or enclosure, without ornamentation or a fixed
13 interior lining, that is designed for the encasement of human remains.

14 4. "Authorizing agent" means a person who is legally entitled to
15 order the cremation, disinterment or embalming of human remains pursuant
16 to section 32-1365.02.

17 5. "Beneficiary" means a person whose future funeral arrangements
18 will be handled by a funeral establishment pursuant to a prearranged
19 funeral agreement.

20 6. "Board" means the state board of funeral directors and
21 embalmers.

22 7. "Business entity" includes any corporation, association, limited
23 liability company, professional corporation, partnership, limited
24 partnership, sole proprietorship, business trust, trust, joint venture and
25 other business entity.

26 8. "Casket" means a rigid container that is designed ~~for the~~
27 ~~permanent encasement of~~ TO PERMANENTLY ENCASE human remains and that is
28 usually constructed of wood, metal or synthetic substances and ornamented
29 and lined with fabric.

30 9. "Change of ownership" means a transfer of a controlling legal or
31 equitable interest in a licensed funeral establishment or crematory
32 resulting from a sale or merger. If the establishment or crematory is
33 operated by a business entity, any transfer of the ownership of ten
34 percent or more of the entity constitutes a change of ownership.

35 10. "Conviction" means a criminal adjudication or conviction by any
36 state or federal court of competent jurisdiction, including a judgment
37 based on a no contest plea, without regard to whether civil rights have
38 been restored.

39 11. "Cremated remains" means the remaining bone fragments after
40 cremation.

41 12. "Cremation" means the heating process that reduces human
42 remains to bone fragments by combustion and evaporation.

43 13. "Cremation container" means a leak and spill resistant, rigid,
44 combustible, closed receptacle into which human remains are placed before
45 cremation.

1 14. "Cremationist" means a person who operates a crematory retort,
2 who performs the actual cremation of human remains and who may be licensed
3 pursuant to article 6 of this chapter.

4 15. "Crematory" means a building or portion of a building that is
5 licensed pursuant to article 6 of this chapter and that houses a retort in
6 which only human remains are cremated.

7 16. "Disciplinary action" means AN action taken by the board to
8 revoke or suspend a license or registration, to impose probationary
9 requirements or civil penalties or to issue a letter of censure or
10 reprimand to any person who is subject to this chapter and who violates
11 any provision of this chapter or rules adopted by the board.

12 17. "Embalmer" means a person who is licensed pursuant to this
13 chapter and who is engaged in embalming.

14 18. "Embalmer's assistant" means a person who is registered
15 pursuant to this chapter and who is engaged in embalming without the
16 supervision of a licensed embalmer.

17 19. "Embalming" means the implementation of reconstructive
18 procedures and the process of disinfecting and preserving a dead human
19 body to retard organic decomposition by treating the body to reduce the
20 presence and growth of organisms.

21 20. "Financial institution" means a bank, savings and loan
22 association, trust company or credit union that is lawfully doing business
23 in this state and that is not affiliated with a funeral establishment.

24 21. "Fixed price prearranged funeral agreement funded by trust"
25 means any agreement or combination of agreements that establishes a fixed
26 price for funeral goods and services, that requires a funeral
27 establishment to provide those funeral goods and services at the price
28 levels in effect at the time of the execution of the agreement and that
29 requires the purchaser to convey all or a portion of the accrued interest
30 to the funeral establishment at the time that the funeral goods and
31 services are actually provided.

32 22. "Funded by insurance" means that monies for a prearranged
33 funeral agreement are paid directly to an insurance company licensed
34 pursuant to title 20 on behalf of the beneficiary of the agreement.

35 23. "Funeral directing" means arranging, directing or providing a
36 service in the disposition of dead human bodies for compensation.

37 24. "Funeral director" means a person who is licensed pursuant to
38 this chapter and who is engaged in funeral directing.

39 25. "Funeral establishment" means a business at a specific location
40 that is licensed pursuant to this chapter and that is devoted to the care,
41 storage or preparation for final disposition or transportation of dead
42 human bodies.

43 26. "Funeral goods and services" means any personal property or
44 services THAT ARE typically sold or provided in connection with the final
45 disposition of human remains, including caskets, alternative containers,

1 outer burial containers, cremation containers, transportation containers,
2 funeral clothing or accessories, monuments, grave markers, urns, embalming
3 services, funeral directing services and similar funeral or burial items.
4 Funeral goods and services do not include goods and services sold by
5 cemeteries.

6 27. "Good moral character" means that a person:

7 (a) Has not been convicted of a class 1 or 2 felony by a court of
8 competent jurisdiction.

9 (b) Has not, within five years of ~~application~~ APPLYING for
10 licensure or registration, been convicted of a felony or misdemeanor if
11 the offense has a reasonable relationship to the person's proposed area of
12 licensure or registration.

13 (c) Has not, within five years of ~~application~~ APPLYING for
14 licensure or registration, committed any act involving dishonesty, fraud,
15 misrepresentation, breach of fiduciary duty, gross negligence or
16 incompetence if the act has a reasonable relationship to the person's
17 proposed area of licensure or registration.

18 (d) Is not currently incarcerated in or on community supervision
19 after a period of imprisonment in a local, state or federal penal
20 institution or on criminal probation.

21 (e) Has not engaged in fraud or misrepresentation in connection
22 with an application for licensure or registration under this chapter or an
23 examination required for licensure or registration.

24 (f) Has not, within five years of ~~application~~ APPLYING for
25 licensure or registration, had a license, registration or endorsement
26 revoked or suspended by the board or by the funeral services licensing
27 authority of any other jurisdiction.

28 (g) Has not surrendered a license, registration or endorsement to
29 the board or the funeral licensing authority of any other jurisdiction in
30 lieu of disciplinary action.

31 (h) Has not practiced funeral directing or embalming without a
32 license in this state or any other jurisdiction that requires licensure to
33 perform these activities.

34 28. "Holding facility" means a designated area for the retention of
35 human remains.

36 29. "Human remains" means a lifeless human body or parts of a human
37 body that ~~permit~~ ALLOW a reasonable inference that death occurred.

38 30. "Intern" means a person who is licensed pursuant to this
39 chapter and who is engaged in EITHER OR BOTH OF THE FOLLOWING:

40 (a) Embalming under the supervision of a licensed embalmer.

41 (b) ARRANGING AND DIRECTING FUNERALS UNDER THE SUPERVISION OF A
42 LICENSED FUNERAL DIRECTOR.

43 31. "Intern trainee" means a person who intends to enter training
44 as an intern and who is temporarily employed by a funeral establishment.

1 32. "License" means a written authorization that is issued by the
2 board and that entitles a person to act as a funeral director, embalmer or
3 intern or to operate a funeral establishment or crematory in this state.

4 33. "Licensee" means a person to whom the board has issued a
5 license to act as a funeral director, embalmer or intern or to operate a
6 funeral establishment or crematory in this state.

7 34. "Manage" means:

8 (a) That a responsible funeral director exercises control and
9 oversight over all employees of a funeral establishment and over funeral
10 transactions, including the care of dead human bodies, funeral services
11 and activities and the documentation and retention of records.

12 (b) That a responsible cremationist exercises control and oversight
13 over all employees of a crematory and crematory operations.

14 35. "National board examination" means the test or tests given by
15 the conference of funeral service examining boards to determine the entry
16 level knowledge and skills of a person regarding funeral directing and
17 embalming.

18 36. "Net interest" means interest earned on a prearranged funeral
19 trust account ~~less~~ MINUS applicable taxes, reasonable and necessary
20 charges made by the financial institution and the annual service fee
21 ~~permitted~~ ALLOWED to be deducted by the funeral establishment according to
22 section 32-1391.06, subsection B.

23 37. "Outer burial container" means a container that is designed for
24 placement in a grave around a casket, including burial vaults, grave boxes
25 and grave liners.

26 38. "Owner" means a person who owns ten percent or more of a
27 business entity. Owner does not include shareholders of companies who
28 have a class of common equity stock listed or authorized to be listed on
29 the New York stock exchange or the American stock exchange or listed on
30 the NASDAQ stock market.

31 39. "Person legally responsible" means the person responsible for
32 burying a dead body as determined in section 36-831.

33 40. "Prearranged funeral agreement" means any agreement or
34 combination of agreements under which a payment is made before the death
35 of the intended beneficiary for funeral goods and services to be delivered
36 or performed after the death of the beneficiary.

37 41. "Prearranged funeral trust account" means a trust account that
38 is established at a financial institution and into which all monies paid
39 on behalf of a beneficiary pursuant to a prearranged funeral agreement are
40 deposited.

41 42. "Preparation" means washing, shaving, dressing or arranging
42 hair on, applying cosmetics to or positioning bodily features on a dead
43 human body and placing ~~a~~ dead human body in a casket.

- 1 43. "Processed cremated remains" means cremated remains after they
2 are pulverized and cleaned, leaving primarily small bone fragments.
- 3 44. "Provisionally accredited" means granted candidacy status by
4 the American board of funeral service education.
- 5 45. "Registration" means a written authorization that is issued by
6 the board and that entitles a person to act as an assistant funeral
7 director, an embalmer's assistant or a prearranged funeral salesperson in
8 this state.
- 9 46. "Responsible cremationist" means a licensed cremationist who
10 manages a crematory.
- 11 47. "Responsible funeral director" means a person who is licensed
12 pursuant to this chapter, who is engaged in funeral directing and who
13 manages and is accountable for a funeral establishment.
- 14 48. "Retort" means an enclosed space within which cremation takes
15 place.
- 16 49. "State equivalent examination" means the test or tests **THAT ARE**
17 provided by the conference of funeral service examining boards and offered
18 by the board to determine the entry level knowledge and skills of a person
19 regarding funeral directing and embalming.
- 20 50. "Supervise" or "supervision" means **THAT** a licensed embalmer has
21 responsibility for and is within sight and sound of a licensed intern who
22 is embalming a dead human body or a student who is assisting in embalming
23 a dead human body.
- 24 51. "Temporary container" means a receptacle that is usually made
25 of cardboard, rigid plastic or another similar material and that is
26 designed to hold processed cremated remains until they are placed in an
27 urn or another permanent container.
- 28 52. "Trust funds" means all monies **THAT ARE** deposited on behalf of
29 a beneficiary of a prearranged funeral agreement funded by trust and all
30 accrued net interest. Trust funds shall be considered an account kept in
31 suspense until distributed to the beneficiary, the funeral establishment
32 or the estate of the beneficiary in accordance with this article.
- 33 53. "Universal precautions" means the universal blood and fluid
34 precautions recommended by the centers for disease control of the United
35 States public health service to prevent the transmission of bloodborne and
36 bodily fluid-borne infectious diseases.
- 37 54. "Unprofessional conduct" includes the following acts, whether
38 occurring in this state or elsewhere:
- 39 (a) ~~Commission of~~ **COMMITTING** a class 1 or 2 felony.
- 40 (b) ~~Commission of~~ **COMMITTING** a felony or misdemeanor if the offense
41 has a reasonable relationship to funeral directing or embalming.
42 Conviction by any court of competent jurisdiction or a plea of no contest
43 is conclusive evidence of the commission.

1 (c) Providing false, misleading or deceptive information on an
2 application for licensure or registration pursuant to this chapter or on
3 an examination required for licensure or registration.

4 (d) Bribing or offering to bribe, directly or indirectly, a member
5 of the board to influence the member's actions in ~~the performance of~~
6 **PERFORMING** the member's duties.

7 (e) Wilfully interfering with an embalmer, funeral director or
8 cremationist who has lawful custody of a dead human body in ~~the~~
9 ~~performance of~~ **PERFORMING** the embalmer's, funeral director's or
10 cremationist's duty to embalm or prepare the body for burial,
11 transportation or cremation.

12 (f) Paying or causing money or other valuable consideration to be
13 paid to a person, other than an employee of a funeral establishment, to
14 secure business regulated pursuant to this chapter from or through the
15 person.

16 (g) Violating any law of this state or any rule adopted by the
17 department of health services that relates to ~~the~~ embalming or ~~preparation~~
18 ~~of~~ **PREPARING** dead human bodies.

19 (h) Certifying falsely to having embalmed or prepared a dead human
20 body that was embalmed by a person other than a licensed embalmer making
21 the certification or an intern under the supervision of a licensed
22 embalmer making the certification.

23 (i) Falsely advertising or labeling any service or merchandise with
24 the intention of deceiving the public.

25 (j) Shipping or delivering any merchandise or supplies that are not
26 the substantial equivalent of or superior in quality to merchandise or
27 supplies previously presented to the purchaser as samples.

28 (k) Committing any act involving dishonesty, fraud,
29 misrepresentation, breach of fiduciary duty, gross negligence or
30 incompetence if the act has a reasonable relationship to funeral directing
31 or embalming.

32 (l) Engaging in any conduct or practice that is reasonably related
33 to funeral directing or embalming and that is or may be harmful or
34 dangerous to the health, safety or welfare of the public.

35 (m) Within a period of five years, having a license, registration
36 or endorsement suspended or revoked by the board or by the funeral
37 services licensing authority of any other jurisdiction or surrendering a
38 license, registration or endorsement in lieu of disciplinary action.

39 55. "Urn" means a receptacle into which processed cremated remains
40 are placed for disposition.

41 Sec. 2. Section 32-1322, Arizona Revised Statutes, is amended to
42 read:

43 32-1322. Interns, embalmers and funeral directors:
44 qualifications for licensure

45 A. An applicant for licensure as an intern shall:

- 1 1. Hold a high school diploma or its equivalent.
- 2 2. Be a graduate of an accredited or provisionally accredited
- 3 school of mortuary science.
- 4 3. Be of good moral character.
- 5 B. An applicant for licensure as an embalmer shall:
- 6 1. Pass the funeral service science section of the national board
- 7 examination or the state equivalent examination.
- 8 2. Pass the embalmer state laws and rules examination.
- 9 3. Be of good moral character.
- 10 4. Have been licensed as an intern for at least one year.
- 11 5. Have successfully completed an internship program that included
- 12 assisting in ~~the~~ embalming ~~of~~ at least twenty-five dead human bodies.
- 13 C. An applicant for licensure as a funeral director shall:
- 14 1. Pass the funeral service arts section of the national board
- 15 examination or the state equivalent examination.
- 16 2. Pass the funeral director state laws and rules examination.
- 17 3. Be of good moral character.
- 18 4. Have held an active license as an ~~embalmer~~ INTERN for at least
- 19 one year and have assisted in ~~the~~ arranging and directing ~~of~~ at least
- 20 twenty-five funerals.
- 21 Sec. 3. Section 36-324, Arizona Revised Statutes, is amended to
- 22 read:
- 23 36-324. Vital records; copies; access
- 24 A. On written request, a local registrar, a deputy local registrar
- 25 or the state registrar shall issue a certified copy of a registered
- 26 certificate, except the portion of the certificate that contains medical
- 27 information, to any person determined to be eligible to receive the
- 28 certified copy pursuant to criteria prescribed by rules. A LOCAL
- 29 REGISTRAR, A DEPUTY LOCAL REGISTRAR OR THE STATE REGISTRAR SHALL ISSUE
- 30 CERTIFIED COPIES OF A REGISTERED CERTIFICATE TO A LICENSED FUNERAL
- 31 DIRECTOR OR THE FUNERAL DIRECTOR'S DESIGNEE ON THE FUNERAL DIRECTOR'S OR
- 32 DESIGNEE'S WRITTEN OR IN-PERSON REQUEST. THE LOCAL REGISTRAR, DEPUTY
- 33 LOCAL REGISTRAR OR STATE REGISTRAR SHALL PROVIDE THE CERTIFIED COPIES BY
- 34 MAIL OR IN PERSON TO THE FUNERAL DIRECTOR OR THE FUNERAL DIRECTOR'S
- 35 DESIGNEE ON REQUEST.
- 36 B. A certified copy of a registered certificate has the same status
- 37 as the registered certificate.
- 38 C. The United States public health service may receive copies,
- 39 microfilm and other information from the state registrar to prepare
- 40 national vital statistics subject to the following limitations:
- 41 1. The United States public health service bears the cost of
- 42 preparing and transmitting the copies, microfilm and other information.
- 43 2. The copies, microfilm and other information are used for
- 44 statistical purposes and the United States public health service assures a
- 45 person's anonymity.

1 D. In child support cases under 42 United States Code sections 651
2 through 669 or in public benefit matters under chapter 29 of this title or
3 title 46, the state registrar shall provide copies of or access to vital
4 records without charge to the department of economic security or its
5 attorneys. In child welfare cases under title 8, the state registrar
6 shall provide copies of or access to vital records without charge to the
7 department of child safety or its attorneys. A vital record obtained as
8 authorized in this section must be used only for official purposes and, if
9 used in a public proceeding, must be sealed by the court or hearing
10 officer.

11 E. The state registrar shall provide a copy of or access to a vital
12 record to a government agency for its official purposes.

APPROVED BY THE GOVERNOR MAY 6, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2019.